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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant : Andreas MESCHENMOSER

Group Art Unit: 1731

Appln. No. : 09/982,175

Examiner: K. Hastings

Date : October 19, 2001

For : SHOE PRESS

REPLY BRIEF UNDER 37 C.F.R. 1.193(b)(1)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer dated July 16, 2003, the period for reply extending until September 16, 2003.

In the Examiner's Answer, the Examiner has maintained the grounds of rejection advanced in the final rejection and has provided arguments in support thereof.

Appellant notes that this Reply Brief is being filed under 37 C.F.R. 1.193(b)(1) and is directed to the arguments presented in the Examiner's Answer, and is therefore must be entered unless the final rejection is withdrawn in response to the instant Reply Brief. With regard to this Reply Brief, Appellant notes that he is addressing points made in the Examiner's Answer and not repeating the arguments set forth in the Appeal Brief.

POINTS OF ARGUMENT

1. *Art of Record Fails to Disclose or Suggest Interchangeability of Felt and Wire Webs in DE '048*

On Page 4, section 10 (*Grounds for Rejection*), the Examiner asserts that “[i]t would have been obvious to employ a press wire or a dewatering wire as the press wire in DE ‘048 . . . since it is a well known alternative as evidenced by Dahl who at column 5, lines 20 - 24 teach the alternativeness of dewatering wire to dewatering press felt.” Appellant submits that DAHL fails to disclose that felts and wires are universally interchangeable, and that DAHL fails to provide any teaching or suggestion for replacing the press felt of DE ‘048 with a press wire.

In particular, Appellant notes that the disclosure noted by the Examiner relates to constitutions for a *storage band* that is arranged to operate in conjunction with a *press felt*. As noted by DAHL, the storage band is arranged to separate the press felt from the roll surface, and the storage band can be formed by felts, foils or wires. Thus, when considered on the whole, it is apparent that, while DAHL discloses that a felt or a wire can be utilized to form storage belt 9 so as to separate press felt 7 from the surface of the roll, there is no disclosure that felts and wires are universally interchangeable.

Still further, Appellant notes that DAHL, while noting that storage band can be formed by a felt or wire, fails to provide any teaching or suggestion that the wire would provide similar or comparable wicking action to a felt to absorb/remove water. Thus, while

a felt or wire can be utilized for a same purpose when positioned adjacent a felt belt dewatering a wet web, there is no teaching or suggestion that the wire would operate comparably to a felt when positioned adjacent the wet web for dewatering.

Thus, even assuming, *arguendo*, that felts and wires are universally interchangeable in forming the storage belt of DAHL, Appellant submits that there is no teaching or suggestion for modifying DE '048 in the manner asserted by the Examiner. In this regard, Appellant submits that, while the press felt of DE '048 is utilized to absorb water expressed from the web, there is no teaching or suggestion that a wire would operate in this same manner. That is, while the art of record discloses a felt arranged to remove water from a wet web through wicking action, there is no teaching or suggestion that replacing the felt with a wire would result in a similar result. As such, Appellant submits that, because of the structural and material differences between a felt and a wire, it cannot be ascertained whether the replacement of a felt with a wire will enable DE '048 to remove water from the web in the manner intended by its inventors.

Because it is not apparent that replacing a felt with a wire will provide similar and/or acceptable results in DE '048, Appellant submits that it would not have been obvious to replace the felt belt of DE '048 with a wire, as asserted by the Examiner.

Further, assuming, *arguendo*, that the Examiner's assertions were appropriate that it were obvious to replace the felt with a wire (which Appellant submits it is not), Appellant

submits that claims 4, 20, 26, 30 - 35, 38, and 39, which additionally recite two felt belts, could be rendered unpatentable by the asserted combination of documents, since the felt belts of DE '048 have been replaced with wire belts.

Accordingly, Appellant requests that the Board reverse the Examiner's decision to finally reject the claims under 35 U.S.C. § 103(a) and remand the application to examining group for allowance.

2. ***Art of Record Fails to Disclose or Suggest Interchangeability of Felt and Wire Webs in Schiel***

On Page 4, section 10 (*Grounds for Rejection*), the Examiner asserts that "[i]t would have been obvious to employ a press wire or a dewatering wire as the press wire in . . . Schiel since it is a well known alternative as evidenced by Dahl who at column 5, lines 20 - 24 teach the alternativeness of dewatering wire to dewatering press felt." Appellant submits that the DAHL fails to disclose that felts and wires are universally interchangeable, and that DAHL fails to provide any teaching or suggestion for replacing the press felt of SCHIEL with a press wire.

As discussed in SCHIEL, the web guide belt, which can be formed by a felt, is formed with high rigidity and low flexibility so as to withstand belt tensions of at least about 15kN/m. SCHIEL at col. 4, lines 49 - 52. Thus, Appellant submits that, whether the guide belt is formed by a felt or not, the belt must exhibit high rigidity and low flexibility to withstand the noted tensions.

However, Appellant notes that, as DAHL, as discussed above, fails to teach or suggest universal interchangeability of felts and wires (i.e., only replaceability in a specific instance), there is no suggestion of replacing the felt of SCHIEL with a wire. Moreover, as there is no teaching or suggestion that the felt/wire of DAHL is a low flexibility, high rigidity belt, there is no teaching or suggestion that it would have been obvious combine the art of record in the manner asserted by the Examiner.

Accordingly, Appellant requests that Board reverse the Examiner's decision to finally reject the claims, and remand the application to the examining group for early allowance.

3. ***DE '048 Fails to Teach or Suggest that Press Belts are Driven***

As noted above, because DE '048 fails to teach or suggest that the disclosed press felts can be replaced with wires, as asserted by the Examiner, Appellant submits that DE '048 (as well as the other documents of record) fails to teach or suggest that the recited press belts of the independent claims, of which at least one is a wire web, are driven.

Appellant notes that, in DE '048, the press felts are driven, which is wholly in contrast to the recitation in the instant invention that the press belts, at least one of which is a wire, are driven. As discussed above, the art of record (including DAHL) fails to teach or suggest replacing the felt of DE '048 with a wire, as asserted by the Examiner, such that the asserted rejection is improper and should be withdrawn.

With regard to SCHIEL, Appellant submits that there is no suggestion of driving the

opposing rolls with separate driven belt, as asserted by the Examiner. While Appellant acknowledges that SCHIEL discloses at least one drive belt, there is no teaching or suggestion for positioning drive belts on opposite sides of the web, as asserted by the Examiner. As Appellant noted in his Appeal Brief, such a modification would appear to create engineering problems with regard to speed regulation, etc.

Thus, as it would not appear obvious to modify SCHIEL in the manner asserted by the Examiner, Appellant requests that Board reverse the Examiner's decision to finally reject the claims and remand the application to the examining group for early allowance.

4. *Meinander Fails to Teach or Suggest Deficient Subject Matter*

While the Examiner asserts that MEINANDER evidences the alternativeness of a dewatering wire and a dewatering felt (Examiner's Answer, page 4), Appellant submits that the Examiner's asserts are improper. In fact, Appellant submits that MEINANDER actually supports his position with regard to DAHL.

That is, MEINANDER discloses a press in which the web 3 is pressed by a water impermeable surface 4 to direct the water downwardly toward a felt 7. On the opposite side of felt 7, MEINANDER discloses a fabric wire 8 arranged to remove excess water from felt 7. Thus, Appellant submits that, as the water is removed from the web through the wicking action of felt 7, excess water seeping through felt 7 is removed by fabric wire 8.

However, just as was taught in DAHL, a fabric wire is utilized adjacent a press felt

to facilitate the removal of water from the felt, not in place of a press felt, as asserted by the Examiner. Thus, Appellant submits that MEINANDER fails to cure any of the above-noted defects of the applied art.

5. ***McDonald Discloses Theory that Fails to Positively Teach or Suggest Subject Matter for Modifying Art of Record***

As discussed in Appellant's Brief, instead of a positive teaching related to the art of record, McDONALD merely offers his opinion as to what the future may hold with regard to the use of helper motors. Thus, Appellant submits that McDONALD merely presents an invitation to invent or guidance for practitioners in future endeavors.

In this regard, Appellant submits that MacDONALD's general statements regarding what may happen in the future is not a positive teaching that all rolls should be driven, which appears to be the Examiner's interpretation of MacDONALD's theory, and, therefore, cannot be relied upon a teaching for modifying the art of record in the manner asserted by the Examiner.

Further, Appellant notes that the applied portion of the document is related McDONALD's opinion that helper motors may likely become more prevalent (but not necessarily) in the art to assist the driving of rolls and cylinders *which are currently driven only by belts*. However, as noted above, because DE '048 fails to disclose or suggest that the press rolls are driven by press belts, of which at least one is a wire, Appellant submits that it would not have been obvious to modify DE '048 in the manner asserted by the Examiner.

Still further, Appellant notes that, for the reasons set forth above, it would not have been obvious to modify SCHIEL in view of McDONALD's theory, since, as noted above, driving both rolls neglects the additional burden in speed regulation, etc. Thus, Appellant submits that it would not have been obvious to combine the art in the manner asserted by the Examiner, and requests that the Examiner's decision to finally reject the claims be reversed.

6. *Justus Fails to Cure the Defects Asserted by the Examiner*

Appellant notes that, as DE '048 discloses that water is spun off after the press nip into appropriate collectors, there is no teaching or suggestion for utilizing a grooved and/or blind bored belt, as recited in Appellant's independent claims. Moreover, while Appellant acknowledges that JUSTUS discloses a grooved belt surface, there is no teaching or suggestion in JUSTUS of spinning off water into awaiting collectors.

Thus, Appellant submits that, as DE '048 and JUSTUS are structurally and operationally distinct, it would not have been obvious to one ordinarily skilled in the art to modify DE '048 in view of JUSTUS.

Further, as there is no teaching or suggestion in SCHIEL of expressed water, it would not have been obvious to modify SCHIEL to include grooved surfaces in the belt, to remove expressed water, as disclosed by JUSTUS. Thus, for this additional reason, Appellant requests that the Board reverse the Examiner's decision to reject the claims under 35 U.S.C. § 103(a).

7. *Laapotti Fails to Cure the Defects Asserted by the Examiner*

Appellant submits LAAPOTTI fails to teach nor suggest the subject matter noted above as deficient in either of DE '048 and SCHIEL (with or without MacDONALD, DAHL, MEINANDER, and/or JUSTUS). In particular, LAAPOTTI fails to provide any teaching or suggestion that a felt and wire are universally interchangeable and fails to teach or suggest driving press belts, of which at least one is a wire belt, as recited in at least the independent claims.

Further, Appellant notes that LAAPOTTI fails to teach or suggest a solution to a stated problem of the other applied art which would render the instant invention unpatentable. In particular, as each applied document provides different manners of acting on different portions of the web for differing reasons, Appellant submits that the art of record fails to provide the requisite motivation or rationale for combining the art of record in the manner asserted by the Examiner. Moreover, Appellant submits that, as none of the art provides any teaching as to why one ordinarily skilled in the art would combine the various distinct features of the applied art into a single apparatus, the instant rejections are improper and should be reversed.

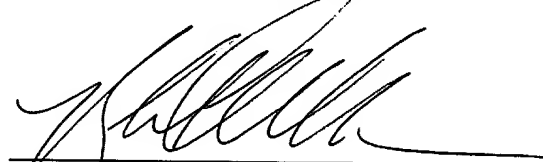
Therefore, Appellant submits that LAAPOTTI fails to render the instant invention unpatentable, and requests that the Board reverse the Examiner's decision to finally reject claims 13 - 17, 22, 40, and 41 under 35 U.S.C. § 103(a).

CONCLUSION


For the reasons expressed above, Appellant respectfully requests that the grounds of rejection advanced by the Examiner be reversed. Appellant further requests that the application be returned to the Examining Group for prompt allowance.

This Reply Brief is submitted herewith in triplicate for the convenience of the Board. Although neither a fee nor an extension of time is believed to be due with this Reply Brief, if an extension of time is necessary, Appellant respectfully requests an extension of time under 37 C.F.R. 1.136(a) for as many months as would be required to render this submission timely. Further, the Commissioner is hereby authorized to charge any additional fee due to Deposit Account No. 19-0089.

Respectfully submitted,
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